

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Winnebago Cooperative Telephone Association	)	File No. EB-02-TS-664
	)	
Operator of Cable System in:	)	
	)	
Thompson, Iowa	)	
	)	
Request for Waiver of Section 11.11(a) of the	)	
Commission's Rules	)	

**ORDER**

**Adopted: July 9, 2003****Released: July 14, 2003**

By the Chief, Technical and Public Safety Division, Enforcement Bureau:

1. In this *Order*, we grant Winnebago Cooperative Telephone Association ("Winnebago") a temporary waiver of Section 11.11(a) of the Commission's Rules ("Rules") for the above-captioned cable television system. Section 11.11(a) requires cable systems serving fewer than 5,000 subscribers from a headend to either provide national level Emergency Alert System ("EAS") messages on all programmed channels or install EAS equipment and provide a video interrupt and audio alert on all programmed channels and EAS audio and video messages on at least one programmed channel by October 1, 2002.<sup>1</sup>

2. The Cable Act of 1992 added new Section 624(g) to the Communications Act of 1934 ("Act"), which requires that cable systems be capable of providing EAS alerts to their subscribers.<sup>2</sup> In 1994, the Commission adopted rules requiring cable systems to participate in EAS.<sup>3</sup> In 1997, the Commission amended the EAS rules to provide financial relief for small cable systems.<sup>4</sup> The Commission declined to exempt small cable systems from the EAS requirements, concluding that such an exemption would be inconsistent with the statutory mandate of Section 624(g).<sup>5</sup> However, the

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<sup>1</sup> 47 C.F.R. § 11.11(a).

<sup>2</sup> Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, § 16(b), 106 Stat. 1460, 1490 (1992). Section 624(g) provides that "each cable operator shall comply with such standards as the Commission shall prescribe to ensure that viewers of video programming on cable systems are afforded the same emergency information as is afforded by the emergency broadcasting system pursuant to Commission regulations ...." 47 U.S.C. § 544(g).

<sup>3</sup> *Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency Broadcast System, Report and Order and Further Notice of Proposed Rule Making*, FO Docket Nos. 91-171/91-301, 10 FCC Rcd 1786 (1994) ("First Report and Order"), reconsideration granted in part, denied in part, 10 FCC Rcd 11494 (1995).

<sup>4</sup> *Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency Broadcast System, Second Report and Order*, FO Docket Nos. 91-171/91-301, 12 FCC Rcd 15503 (1997) ("Second Report and Order").

<sup>5</sup> *Id.* at 15512-13.

Commission extended the deadline for cable systems serving fewer than 10,000 subscribers to begin complying with the EAS rules to October 1, 2002, and provided cable systems serving fewer than 5,000 subscribers the option of either providing national level EAS messages on all programmed channels or installing EAS equipment and providing a video interrupt and audio alert on all programmed channels and EAS audio and video messages on at least one programmed channel.<sup>6</sup>

3. Winnebago filed a request for a temporary, six-month waiver of Section 11.11(a) for the captioned cable system on October 11, 2002. In support of its waiver request, Winnebago states that it ordered EAS equipment in August 2002 for its small, rural cable system which serves approximately 2,200 subscribers. Winnebago further states that after installing the EAS equipment, it found certain components of the EAS system missing. Winnebago submits that its vendor's delivery of the missing components has been delayed. Winnebago asserts that its subscribers will continue to have ready access to national EAS information from other sources, including broadcast stations carried on its cable system. Finally, Winnebago believes that it can bring the captioned cable system into EAS compliance within the next six months.

4. Based upon our review of the information submitted by Winnebago, we conclude that a temporary waiver of Section 11.11(a) for the captioned cable system from October 11, 2003 until April 1, 2003 is warranted.<sup>7</sup> However, we note that Winnebago did not file its waiver request until October 11, 2002, after the October 1, 2002 deadline for cable systems serving 10,000 or fewer subscribers to install EAS equipment. We find that Winnebago was in violation of the requirement in Section 11.11(a) of the Rules to install EAS equipment by October 1, 2002. We admonish Winnebago for this violation.

5. Accordingly, **IT IS ORDERED** that, pursuant to Sections 0.111, 0.204(b) and 0.311 of the Rules,<sup>8</sup> Winnebago Cooperative Telephone Association **IS GRANTED** a waiver of Section 11.11(a) of the Rules from October 11, 2002 until April 1, 2003 for the captioned cable television system.

6. **IT IS FURTHER ORDERED** that Winnebago Cooperative Telephone Association is **ADMONISHED** for violating the requirement in Section 11.11(a) of the Rules to install EAS equipment by October 1, 2002.

7. **IT IS FURTHER ORDERED** that Winnebago Cooperative Telephone Association place a copy of this waiver in its system file.

8. **IT IS FURTHER ORDERED** that a copy of this *Order* shall be sent by Certified Mail Return Receipt Requested to counsel for Winnebago Cooperative Telephone Association, Marci E. Greenstein, Esq., Kraskin, Lesse & Cosson, LLP, 2120 L Street, N.W., Suite 520, Washington, D.C. 20037.

#### FEDERAL COMMUNICATIONS COMMISSION

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<sup>6</sup> *Id.* at 15516-15518.

<sup>7</sup> We clarify that the waiver we are granting also encompasses the EAS testing and monitoring requirements.

<sup>8</sup> 47 C.F.R. §§ 0.111, 0.204(b) and 0.311.

Joseph P. Casey  
Chief, Technical and Public Safety Division  
Enforcement Bureau